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THE RULES OF EVIDENCE STATED AND DISCUSSED. By JOHN APPLETON, Justice of the Supreme Judicial Court of Maine. Philadelphia: T. & J. W. Johnston & Co., Law Booksellers and Publishers. 1860. pp. 284.

This is an interesting publication. It discusses, with marked ability, some deeply interesting questions to jurists. The questions arising from the rules as to the Incompetency of Witnesses have received within a few years an enlarged discussion, and very considerable modifications. And the subject of Confessions and Hearsay is still in a confused and unsatisfactory condition, and requires more ample discussion and some modification. The closing paragraph of the learned judge's treatise reveals his object:—"Without evidence, or with bad rules, the judge of fact is as powerless to do justice as the Hebrews of old were to make brick without the needed straw. In what I have done, I have only endeavored to apply the reasoning and principles of Bentham, of which I have made free use, to the law as found in the treatises of jurisconsults and the decisions of courts; and, if I have aided in accomplishing the changes which I regard as necessary and indispensable, I shall be abundantly rewarded for my labors." Some of the proposed changes of the learned writer cannot fail to be made, sooner or later; and the more enlightened and philosophical spirit of modern civilization will not tolerate rules of evidence fashioned for an early and rude community. And, while we are not prepared to assent to all the suggestions made in this treatise, we are sure that it will arrest the attention and command the respect of all who read it. It is proper to add, that it is also published in the Law Library of February and March, 1860.

A TREATISE ON THE AMERICAN LAW OF REAL PROPERTY. By EMORY WASHBURN. Vol. 1. Little, Brown & Co., Boston.

We welcome this work as a valuable accession to our legal literature. It must undoubtedly become the standard text-book for the student of this branch of the law. Those readers, whose taste has been exclusively formed by some of the more recent and popular treatises on legal subjects, may not, upon the first examination, feel very strongly drawn towards the present volume. There is none of that display of the accumulated results of mere case hunting, with which we have of late become so familiar. The idea of the author seems to have been, to fortify each proposition of the text by a few strong, well-chosen, and pertinent authorities, and then he stops,—without emptying the United States' Digest into his foot-notes. Nor has he converted his notes into a commentary upon

his own text, or into a minor treatise of criticism, comparison, analysis, and distinction, so that the eye of the reader is kept glancing from the top to the bottom of the page, and his mind is diverted by two parallel trains of thought, as if he were reading two volumes at the same time. There are, here, none of the arts of book-making,—none of the obsolete erudition of real property law is paraded before us. A score of pages discusses as much of the old learning as is relevant for historical purposes, and the student is at once brought into contact with the living body of the law as now administered in this country. The style of the work is admirable. Its chief qualities are condensation and clearness. The sentences, instead of giving us the raw materials for our own study and reflection, appear to be themselves the embodied results of the author's examination of the different subjects. Caution and sound judgment pervade the entire volume. Indeed, Prof. Washburn combines the qualities requisite for the production of a successful legal treatise. He has had a large experience at the bar, and in this particular department of the law was reputed to be one of the ablest practitioners in New England. Besides, his duties as Professor at Harvard have familiarized him with legal literature, so that he blends the characteristics of active professional experience with those of more secluded and bookish study. These qualities cannot fail to give his treatise a high character for thoroughness and reliability. We can confidently recommend it to the student and practitioner.

PENNSYLVANIA STATE REPORTS. Vol. 35th, comprising cases adjudged in the Supreme Court of Pennsylvania, by JOSEPH CASEY, State Reporter. Vol. 11th, containing cases decided in part of October term, 1859, and in January term, 1860. Philadelphia: Kay & Brother, Law Booksellers, Publishers, and Importers, 19 South Sixth street, east side. 1860.

Mr. Casey furnishes his eleventh contribution to our legal literature, and its contents are much the same as its predecessors. The usual variety to be found in the litigation of a large and commercial community here meets us. The case of *Barrett vs. Kimmel*, p. 13, is a most curious one on the validity of a marriage; the *Pennsylvania R. R. Co. vs. Ogier*, p. 61, is an interesting discussion of the doctrines of mutual negligence, contributing to an accident and the relative duties and watchfulness required from and owed by a locomotive engine driver and a traveller driving his carriage along a highway. *Eisenlohr vs. Swain*, p. 107, gives us the rule that a newspaper publisher for neglecting to insert a paid advertisement of a